

Agricultural Marketing Service, USDA

§ 927.35

(a) To administer, as specifically provided in §§ 927.20 to 927.35, the terms and provisions of this subpart:

(b) To make administrative rules and regulations in accordance with, and to effectuate, the terms and provisions of this subpart; and

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart.

§ 927.32 Duties of Control Committee.

The duties of the Control Committee shall be as follows:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To keep minutes, books, and records which will reflect clearly all of the acts and transactions of the Control Committee, which minutes, books, and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary;

(c) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears, and to furnish to the Secretary such available information as may be requested;

(d) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935 (49 Stat. 774), as amended;

(e) To cause the books of the Control Committee to be audited by one or more competent accountants at the end of each fiscal year and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

(f) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(g) To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee;

(h) To select a chairman of the Control Committee and, from time to

time, such other officers as it may deem advisable; and

(i) To submit to the Secretary each fiscal period a budget of its expenses during that fiscal year.

[15 FR 6071, Sept. 9, 1950. Redesignated at 26 FR 12751, Dec. 30, 1961, and as amended at 27 FR 93, Jan. 5, 1962]

§ 927.33 Procedure of Control Committee.

(a) *Quorum and voting.* A quorum at a meeting of the Control Committee shall consist of nine members, or alternates then serving in the place of any members. Except as otherwise provided in § 927.52, all decisions of the Control Committee at any meeting shall require the concurring vote of at least 75 percent of those members present, including alternates then serving in the place of any members.

(b) *Mail voting.* The Control Committee may provide for members voting by mail, telecopier or other electronic means, telephone, or telegraph, upon due notice to all members. Promptly after voting by telephone or telegraph, each member thus voting shall confirm in writing, the vote so cast.

[15 FR 6071, Sept. 9, 1950. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 51 FR 30627, Aug. 28, 1986; 62 FR 61002, Nov. 14, 1997]

§ 927.34 Rights of the Secretary.

The members and alternates for members of the Control Committee and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 927.35 Funds and other property.

(a) All funds received by the Control Committee pursuant to any of the provisions of this subpart shall be used solely for the purposes specified in this subpart, and the Secretary may require

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the Control Committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, disqualification, or expiration of the term of office of any member or employee of the Control Committee, all books, records, funds, and other property in his possession belonging to the Control Committee shall be delivered to his successor in office or to the Control Committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant to this subpart.

§ 927.36 Public advisors.

The Control Committee may appoint such public advisors as it deems appropriate and determine the compensation and defines the duties of such advisors.

[51 FR 30627, Aug. 28, 1986]

EXPENSES AND ASSESSMENTS

§ 927.40 Expenses.

The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this subpart. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 927.41.

§ 927.41 Assessments.

(a) Assessments will be levied only upon handlers who first handle pears. Each handler shall pay assessments on all pears handled by such handler as the pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the Control Committee during a fiscal period. The payment of assessments for the maintenance and functioning of the Control Committee may be required under this part throughout the period such assessments are payable irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) Based upon a recommendation of the Control Committee or other available data, the Secretary shall fix the

rate of assessment that handlers shall pay on all pears handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 927.47. At any time during the fiscal period when it is determined on the basis of a committee recommendation or other information that a different rate is necessary for all pears or for any varieties or subvarieties, the Secretary may modify a rate of assessment and such new rate shall apply to any or all varieties or subvarieties that are shipped during the fiscal period.

(c) The Control Committee may impose a late payment charge on any handler who fails to pay any assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Control Committee may impose an additional charge in the form of interest on such outstanding amount. The amount of such late payment charge and rate of interest, shall be prescribed by the Control Committee, with the approval of the Secretary.

(d) In order to provide funds to carry out the functions of the Control Committee prior to commencement of shipments in any season, handlers may make advance payments of assessments, which advance payments shall be credited to such handlers and the assessments of such handlers shall be adjusted so that such assessments are based upon the quantity of each variety of pears handled by such handlers during such season. Further, payment discounts may be authorized by the Control Committee upon the approval of the Secretary to handlers making such advance assessment payments.

[51 FR 30627, Aug. 28, 1986, as amended at 61 FR 17554, Apr. 22, 1996]

§ 927.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carryover such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve